

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2005-13-W/S - ORDER NO. 2005-214

MAY 4, 2005

IN RE: Application of Wyboo Plantation Utilities,) ORDER GRANTING
Inc. for Approval of a New Schedule of Rates) MOTION TO
and Charges for Water and Sewer Services.) WITHDRAW WITHOUT
) PREJUDICE AND
) GRANTING OTHER
) RELIEF

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Motion of Wyboo Plantation Utilities, Inc. (Wyboo or the Company) to withdraw its Application for Approval of a New Schedule of Rates and Charges for Water and Sewer Service (the Application) without prejudice to its right to refile for such relief at any time.

The Company states that on January 9, 2005, Wyboo filed its Application for approval of a new schedule of rates and charges for water and sewer service. Wyboo states that it has a need to withdraw its Application so that it will have additional time to evaluate costs and benefits of certain projects that may be required by the South Carolina Department of Health and Environmental Control (DHEC) and the effect of those projects and other financial considerations upon the proposed rate schedule. The Company also notes that it would also like the opportunity to attempt to more fully

inform the intervenors in this docket of the costs and benefits associated with these projects and Wyboo's need for rate relief.

Wyboo states that it has an immediate need for rate relief that is driven in part by the subject projects and the length of time that has passed since its last rate proceeding. Consequently, the Company states a belief that it needs to refile its application within the next three to six months.

Wyboo notes that this Commission has previously granted other similarly-situated utilities the relief that Wyboo is requesting herein. For example, in Docket No. 1991-641-W/S, Carolina Water Service, Inc. (CWS) moved to withdraw its application to increase its water and sewer rates without prejudice to its right to refile for rate relief at any time. We would note that this Commission granted CWS's Motion in Order No. 92-274, ruling that CWS was "not precluded by the previous filing of said Application and Rate Schedules from seeking rate relief as the Company deems appropriate, including the filing of an application for rate relief before December 16, 1992," which was 12 months after the date of the original rate filing.

The Company also cites S.C. Code Ann. Section 58-5-240(F) (Supp. 2004), which states:

After the date the schedule is filed with the Commission, no further rate change request under this section may be filed until twelve months have elapsed from the date of filing of the schedule.

Wyboo states a belief that this statutory provision is not inconsistent with the Commission's ruling in Order No. 92-274, since it only prohibits the utility from requesting a **further** rate increase immediately on the heels of the last completed rate

proceeding. The Company believes that we demonstrated in Order No. 92-274 that the provision does not prohibit a utility from reapplying for rate relief within a twelve-month period if it has voluntarily withdrawn the previous application.

Further, Wyboo cites S.C. Code Ann. Section 58-3-225(E) as further supporting its Motion. This statute states in relevant part:

A party may withdraw its petition, [or] application... from any Commission docket one time as a matter of right, and without prejudice provided that it does so prior to...the date that the withdrawing party's direct testimony addressing such petition, application...is due to be filed with the Commission [emphasis added].

In the present case, although Wyboo's direct testimony was not due to be filed until April 28, 2005, Wyboo filed the present Motion on April 14, 2005. Thus, it is Wyboo's belief that S.C. Code Ann. Section 58-3-225(E) makes it clear that Wyboo may now withdraw its application for rate relief "without prejudice," including any time constraints on the refiling of this application.

Accordingly, Wyboo requests a ruling from this Commission that it may withdraw its present Application and rate schedules without prejudice, and that it is not precluded by its filing of the present Application for rate relief from seeking rate relief as Wyboo deems appropriate, including the filing of an Application for rate relief before January 7, 2006. After consideration of the representations and legal arguments of the Company, we find that the requested relief should be granted. Accordingly, we make the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Wyboo Plantation Utilities, Inc. filed a Motion with this Commission to withdraw its Application without prejudice to its right to refile for relief at any time.

2. The Company needs to withdraw its present rate Application so that it will have additional time to evaluate costs and benefits of certain projects that may be required by DHEC and the effect of those projects and other financial considerations upon the proposed rate schedule.

3. The Company also wants to more fully inform the intervenors in this docket of the costs and benefits associated with these projects and Wyboo's need for rate relief.

4. If allowed to withdraw, Wyboo states that it needs to refile its Application within the next three to six months.

5. The Commission has already granted similar relief to Carolina Water Service in Order No. 92-274.

6. S.C. Code Ann. Sections 58-5-240(F) and 58-5-225(E) (Supp. 2004) both support the relief sought in the Motion.

7. The Motion should be granted as filed.

ORDER

1. Wyboo may withdraw its present Application and rate schedules without prejudice.

